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ENGLISH CROWN CASES RESERVED.

*Court of Criminal Appeal, June, 1854.*CORAM LORD CAMPBELL, C. J., ALDERSON, B., COLERIDGE, J., MARTIN, B.,
AND CROWDER, J.¹

REG. vs. GEORGE FEATHERSTONE.

1. Delivery by the wife of her husband's goods to her adulterer, he having knowledge that she had taken them without her husband's authority, is sufficient to support an indictment for larceny against the adulterer.
2. Where a case was reserved for the Court of Criminal Appeal, and the Judge before whom it was tried died before it was signed, the Court directed it to be signed by the other Judge who was in the commission.

This case had been tried before the late Mr. Justice Talfourd, who died before it had been signed by him, according to the 11 & 12 Vict. c. 78, s. 2. Upon application to the Court on a former occasion (April 29) for its direction under the circumstances, the Court directed that it should be signed by the learned judge (Mr. Justice Wightman) who had been in the commission with Mr. Justice Talfourd. The case was as follows: The prisoner, George Featherstone, was tried at the last assizes at Worcester. The indictment charged him with stealing twenty-two sovereigns and some wearing apparel. It appeared that the prosecutor's wife had taken from the prosecutor's bed-room thirty-five sovereigns and some articles of clothing, and that when she left the house she called to the prisoner, who was in a lower room with the prosecutor and other persons, and said, "George, its all right; come on." The prisoner left in a few minutes afterwards. The prisoner and the wife were afterwards seen at various places, and eventually traced to a public house, where they passed the night together. When taken into custody the prisoner had twenty-two sovereigns upon him. The jury found the prisoner guilty, stating that they did so "on the ground that he received the sovereigns from the wife, knowing that she took them without the consent of her husband." Whereupon the judge respited the judgment, admitted the prisoner to bail and reserved for the opinion of the Court of Appeal the question, whether a delivery of the husband's goods by the wife to the adul-

¹ 18 Jur. 538.

terer, with knowledge by him that she took them without her husband's authority, was sufficient to maintain the indictment for felony against him.

No counsel appeared on either side.

LORD CAMPBELL, C. J.—We are clearly of opinion that the conviction is right. The general rule of law is, that a wife cannot be guilty of larceny if she takes her husband's goods. There is, legally, no taking, because they are one person in the eyes of the law. But the rule is subject to this qualification—if she commit adultery, she has determined her quality of wife, and has no longer any property in her husband's goods. The prisoner is to be considered in the same position as if he had taken the goods. If the wife commit adultery, and take her husband's goods and deliver them to the adulterer, it is felony in him, because no consent of the husband can be presumed. It is a stealing by the prisoner, who is not at liberty to avail himself of the consent of the wife, as showing the consent of the dominus of the goods. The case comes within express authority originally laid down in Dalton,¹ and repeated in every text-book.

ALDERSON, B.—It is not clear that the adulterous wife may be convicted, but he who receives from the adulterous wife may be convicted.

Conviction affirmed.

ABSTRACTS OF RECENT AMERICAN CASES.²

In the Circuit Court of the United States, for Pennsylvania.

Abandonment in Admiralty.—Where a vessel is injured and sunk by collision, in such a place or under such circumstances, that for a small sum of money in comparison with the value of the vessel and cargo, she can be raised and repaired and the cargo recovered with slight damage, her owners have no right to abandon her and claim for a total loss. *Clarke vs. The Steamer Fashion.*

The doctrine of abandonment as connected with cases of insurance, has not been imported into Courts of Admiralty. *Id.*

¹ Dalton's Just. Peace, 353; and see 1 Russ. Cr. 23, by Greaves, 3d ed.

² We are indebted to the reporter for the abstracts of 2d Wallace, Jr., who has kindly furnished us the sheets in advance of publication.